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Todd Thompson
SWRCB
September 8, 1999
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If you have any questions, please call me at the number listed above or Diane Gilbert of my staff at (310) 648-5248.

Sincerely,

Ray J. Kearney
Raymond J. Kearney
Division Manager

RJK:dxg

Enclosures

c: V. Varsh
J. Wilson

September 8, 1999

State Water Resources Control Board
Division of Water Quality
P. O. Box 944213
Sacramento, CA 94244-2130

Attention: Todd Thompson

RE: COMMENTS-DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE GENERAL
WASTE DISCHARGE REQUIREMENTS FOR BIOSOLIDS LAND APPLICATION

The City of Los Angeles, Bureau of Sanitation appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the general waste discharge requirements for biosolids land application. The City fully supports your agency's efforts to develop a General Order (GO) for biosolids land application.

The City commends the State Water Resources Control Board (SWRCB) for its efforts in developing a DEIR that will continue the land application of biosolids while addressing potential impacts to public health and the environment. The use of the U.S. EPA regulations (40 CFR Part 503) demonstrates that the SWRCB is committed to developing a DEIR based on sound science. 14-1

I am enclosing with this letter a table of specific comments that apply to sections of the DEIR. I have listed below several general comments related to the entire document.

The DEIR and the GO should incorporate U. S. EPA's recently completed phase one amendments (64 FR 42552) to the Part 503 regulations. The terminology used throughout the DEIR and the GO should be consistent, such as the use of the terms applier and discharger. The DEIR and the GO should be consistent with the metals that are regulated under the Part 503, such as chromium and molybdenum. 14-2
14-3

Notes: Comments show deletions of text with ~~strikeout~~ and additions to the text in *italics*.

SWRCB DEIR----- June 28, 1999				
#	PG	SECTION	#	COMMENT
1	ES-6	General Order Program Objectives	1	The GO is based on compliance with section 13274 of the California Water Code, which requires the issuance of WDRs for projects that may affect the waters of the state. How does this section of the Water Code affect the renewal of existing biosolids sites permitted under specific WDRs? Will the existing sites be unaffected by the GO, or have to comply with the GO and if so what will be the established time frame for compliance?
2	ES-6	Applicability	2	The term applier and discharger appear to be interchangeable. The word discharger is used throughout the GO but not defined in the findings section of the GO, where the word applier is defined. In the pre-application report, the term applier is used. Please define discharger in the GO and use it throughout the document and remove applier from the findings section or use applier throughout the document.
3	ES-6	Applicability	3	A permitted site under a single NOI cannot be more than 2000 acres and the sites must be within a 20-mile radius. What is the basis for limiting the acreage of a single site? Some landowners may have a site larger than 2000 acres. How would the site be divided and what guidelines would the landowner use to determine and develop an NOI for the sites larger than 2000 acres but in the same location?
4	ES-6	Applicability	3	The GO does not preempt or supersede the authority of local agencies. This statement should be removed from the DEIR and the GO. The GO should require local authorities to provide peer reviewed scientific evidence before allowing them to prohibit, restrict, or control biosolids use beyond the provisions of the GO. Only where health and safety concerns related to specific conditions within a local jurisdiction can be proven should they be permitted to prohibit or further restrict the use of biosolids.
5	ES-7	Requirements of the GO to part 503 regulations	3	What is the scientific basis for regulating ten metals when the U. S. EPA only regulates nine metals under the Part 503 regulations? The DEIR and GO should be consistent with the Part 503 rule. If chromium is being regulated, what is the scientific basis for the limit as set forth in the GO?
6	ES-10	Storage and Transportation	1	The definition of storage in this section is different from the definition in the GO. This section defines storage as more than 7 consecutive days whereas the GO defines it as more than 48 hours. Storage should be for more than 7 consecutive days.
7	2-8	Comply with California Water Code and Judicial Code	1	See comment 1
8	2-10	Applicability	2	See comment 2
9	2-10	Applicability	3	See comment 3
10	2-10	Applicability	3	See comment 4
11	2-12	Requirements of the GO to part 503 regulations	3	See comment 5
12	2-14	Storage and Transportation	1	See comment 6

SWRCB DEIR----- June 28, 1999				
#	PG	SECTION	#	COMMENT
13		Table 2-4		Delete chromium from the table. It is not regulated by the Part 503 regulations. It was removed from the Part 503 regulations in October 1995 (64 FR 54764).
14		Table 2-5		Remove molybdenum from the cumulative loading table. The limits for molybdenum were stayed from the Part 503 rule in February 1994 pending further EPA evaluation. What is the scientific basis for selecting the limits?
15	10-6	Thresholds of Significance	2	This paragraph identifies air districts where biosolids are applied in the greatest volume. When determining the impact for generation of NOx and PM10 and limiting vehicle miles traveled (VMT) per day to 4800, was this number determined for a particular air districts, per site in a particular air district or total of all trucks for all agencies or per agency that transport biosolids in a particular air district?
16	10-7	Mitigation Measure 10-1	1	Limiting vehicle travel to 4800 vehicle miles traveled (VMT) per day for biosolids trucks would increase vehicle emissions for the City of Los Angeles by 67 percent. The City's biosolids vehicles currently travel 9,000 VMT per day. To comply with this requirement the City of Los Angeles would have to divert one-half of its biosolids to a landfill in Arizona. Doing this would increase travel to 15,000 VMT per day and vehicle emissions by 67 percent. Landfilling of biosolids would also impact California's AB 939 mandate to decrease by fifty percent the amount of material being landfilled by year the 2000. This impact should be re-evaluated to determine if limiting truck travel to 4800 VMT per day is actually reducing emissions or creating more emissions and creating other environmental impacts.
17	10-8	Mitigation Measure 10-2	1	Does this mitigation measure apply to biosolids spreaders and other equipment used on the sites? The equipment will create dust. The mitigation only addressed truck travel but the impact statement included biosolids spreaders. What about the impact of emissions from other farming vehicles?

Appendix A: Draft Text of General Order — June 28, 1999				
#	Pg.	SECTION	¶	COMMENT
18	1	Findings	1b	All Exceptional Quality (EQ) biosolids-derived mixtures consisting of more than or equal to 50 percent biosolids (dry weight) applied at more than 10 dry tons per acre per year <i>for use as a soil amendment</i> to continuous fields.... This phase is missing from 1b and included in 1c.
19	2	Findings	3d	See comment 2
20	3	Findings	3ag	Short-term storage: Biosolids storage sites used as a temporary holding facility for less than <i>or equal to</i> 7 days. The definition of long-term storage facility in 3t is more than 7 days, so short-term storage should include 7 days.
21	9	Findings	15	This General Order shall primarily apply to the <i>landowner discharger or applicator</i> of the sites using biosolids.... The executive summary stated that the GO applies to the discharger and this section states the landowner. Delete the word landowner and replace with discharger or applicator. (See comment 2)
22	10	Findings	16	See comment 3
23	10	Findings	17	See comment 4
24	13	Prohibitions	A4	Are municipalities exempt from the Safe Water Drinking Water and Toxic Enforcement Act. How does this act apply to municipalities who generate biosolids?
25	14	Prohibitions	A12	See comment 13
26	15	Discharge Specifications	B4	The statement including background soil metals and metal additions from biosolids was included in this specification. Peer reviewed data and analysis performed during the risk assessment for the Part 503 regulations took into account background soil median metals concentration throughout the United States. What scientific data does the SWRCB have to support this statement?
27	15	Discharge Specifications	B4	See comment 14
28	16	Discharge Specifications	B7b 1(c)	Animals are grazed for at least 30 days. Based upon the mitigation measures 4-2 and 5-2 this timeframe will be changed to 90 days with some conditions for 60 days if temperature requirements are met. What is the scientific basis for changing the grazing times. Comments in Chapter 4 and 5 support the risk assessment provided in the Part 503 that indicates there is little potential for pathogens to be transmitted to animals if grazed on sites applied with biosolids. See amendments to Part 503 (64 FR 42552) regarding intentional grazing versus unintentional grazing.
29	17	Discharge Specifications	B8	The setbacks determined in this section should be consistent with other regulatory limits and the <u>CWEA Manual of Good Practice for the Agriculture Land Application of Biosolids</u> .
30	18	Biosolids Storage and Transportation Specifications	1	See comment 6
31	20	Provisions	D7	The discharger shall be responsible for informing all biosolids transporters and growers using the site of the conditions contained in this general order. Who does grower in this statement refer to? A definition for grower should be included in the findings section.

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Appendix A: Draft Text of General Order — June 28, 1999				
#	Pg.	SECTION	¶	COMMENT
32	22	Provisions	D17	The statement that the discharger should notify the Office of Emergency Services if there is any noncompliance which may endanger human health or the environment should not be the responsibility of the discharger. The discharger is not qualified to make that type of assessment. The Regional Board should advise the discharger that human health or the environment may be endangered and inform the discharger to notify the Office of Emergency Services or the Regional Board makes the notifications.

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Pre-Application Report — June 28, 1999				
#	Pg.	SECTION	¶	COMMENT
33		Pre-Application Report	1	Site location/ Applier <i>Discharger</i> . This section should be changed to be consistent with the GO terminology or the GO should be changed to use <i>Applier</i> as defined in the finding section.
34		Pre-Application Report	1	The work <i>Applier</i> in the table should be changed to <i>Discharger</i> or <i>Applier</i> should be used throughout the GO.
35		Pre-Application Report	3	See comment 13 and 14
36		Annual Reporting	3	See comment 13 and 14
37		Annual Reporting	4	See comment 13 and 14

14-24

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Responses to Comments from the City of Los Angeles Department of Public Works

- 14-1. The commenter supports the analytical approach used in the draft EIR. No response is necessary.
- 14-2. The SWRCB is following EPA's process of amending the Part 503 regulations, but these changes are not being automatically incorporated into the proposed GO. Many of the EPA proposed changes are in a review stage and have not been adopted as final rules. SWRCB staff will incorporate changes as they are deemed necessary to protect water quality and public health.
- 14-3. Since the proposed GO is potentially applicable to several different entities, the titles of groups of people is important and should be used in a concise and consistent manner. Discharger refers to the entity issued and required to comply with the proposed GO. As such, the discharger could be any entity listed on the GO's Notice of Applicability, but in all cases will include the landowner and the generator. See Master Response 4 regarding metals limits.
- 14-4. See Master Response 2.
- 14-5. In all cases, the landowner and the generator will be the discharger, sometimes in conjunction with other entities. All aspects of compliance remain with the discharger, including activities usually associated with the applier. As such, use of the term "discharger" may appear confusing. Also see Response to Comment 14-3.
- 14-6. See Master Response 3.
- 14-7. Such actions (pre-empting of local ordinances) is beyond the authority of the SWRCB. Accordingly, the subject language is accurate and shall remain in the proposed GO. Also see Response to Comment 23-4.
- 14-8. See Master Response 4.
- 14-9. Short-term storage is defined in the proposed GO as less than 7 days; long-term storage is defined as holding biosolids on site for more than 7 days. Staging is defined in the proposed GO as less than 48 hours. Holding biosolids on site can create nuisances and impact the aesthetic value of the surrounding environment. The text of the proposed GO, as found in Finding No. 3(aj). of Appendix A, is amended to read as follows:

Biosolids storage sites used as a temporary holding facility for less than or equal to 7 seven days.

The text on page ES-10, last paragraph, third sentence of the draft EIR is revised as follows:

The proposed GO defines short-term...for more than longer than 48 hours but less than . . .

14-10. See Master Response 4.

14-11. See Master Response 4.

14-12. See Master Response 5.

14-13. See Master Response 5.

14-14. See Master Response 5.

14-15. Comment noted. The text of the proposed GO, as found in Finding No. 1(b). of Appendix A, is amended to read:

All Exceptional . . . 10 dry tons per acre per year for use as a soil amendment to continuous fields . . .

14-16. Comment noted. The text of the proposed GO, as found in Finding No. 3(aj). of Appendix A, is amended to read:

Biosolids storage sites used as a temporary holding facility for less than or equal to 7 seven days.

14-17. The primary entity permitted under this proposed GO will be the landowner and the generator. The landowner is the primary entity responsible for operations allowed on properties and the condition of the properties. The generator is also primarily responsible as the entity required to comply with federal regulations.

14-18. The Safe Drinking Water and Toxic Enforcement Act applies to any entity that discharges into a source of drinking water any chemicals known to the State to cause cancer or reproductive toxicity. It applies with or without being specified in the proposed GO. As such, the proposed GO only brings attention to that law.

14-19. Incorporating soil background is consistent with the risk assessment. On page 117 of “A Guide to the Biosolids Risk Assessment for the EPA Part 503 Rule,” the EPA identifies the “Risk Assessment Acceptable Soil Concentration” for pollutants in biosolids. California has unique geology and therefore has unique soils. For example, some soils in the Salinas Valley contain higher-than-average cadmium levels. Also, soils in the Central San Joaquin Valley contain molybdenum. As such, the proposed GO attempts to equate

these inequities to account for California conditions. Use of background soils concentrations is discussed in more detail in the proposed GO. Specific requirements addressing background soils is explicitly stated. See Discharge Specification No. 5 in the proposed GO (Appendix A).

- 14-20. See Master Response 7 and Master Response 8.
- 14-21. See Master Response 3.
- 14-22. The text of the proposed GO, as found in Finding No. 3 of Appendix A, is amended to add the definition of “grower” as follows:
- o. Grower: Person or entity primarily responsible for planting, maintaining and harvesting or allowing the use of crops and/or range land for domestic animal or human use.
- 14-23. In conjunction with the proposed GO, the discharger, by obtaining the requirements, is made aware of the potential adverse health effects when using biosolids in a manner which is not compatible with the General Order. Although not every violation may constitute an eminent threat to human health, the discharger can make a determination that such is the case if it is believed necessary to ensure compliance with this requirement. SWRCB staff believes that the discharger should immediately notify the State Office of Emergency Services if a significant health threat has been created.
- 14-24. The Pre-Application Report has been modified to include a separate location to report the Applier, if applicable.
- 14-25. See Response to Comment 7-3.